

AMENDED IN SENATE JUNE 29, 2015

AMENDED IN ASSEMBLY JUNE 2, 2015

AMENDED IN ASSEMBLY APRIL 30, 2015

AMENDED IN ASSEMBLY APRIL 22, 2015

AMENDED IN ASSEMBLY APRIL 16, 2015

CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

ASSEMBLY BILL

No. 502

Introduced by Assembly Member Chau

February 23, 2015

An act to amend *Section 1925 of, and to add Article 9.1 (commencing with Section 1967) to Chapter 4 of Division 2 of, the Business and Professions Code, and to amend Sections 13401 and 13401.5 of the Corporations Code, to add Section 1374.196 to the Health and Safety Code, and to add Section 10120.4 to the Insurance Code, Code, relating to dental hygiene.*

LEGISLATIVE COUNSEL'S DIGEST

AB 502, as amended, Chau. Dental hygiene.

~~(1) Existing~~

Existing law, the Dental Practice Act, provides for the licensure and regulation of registered dental hygienists, registered dental hygienists in extended functions, and registered dental hygienists in alternative practice by the Dental Hygiene Committee of California. Existing law authorizes a registered dental hygienist in alternative practice to practice pursuant to specified provisions of law as, among other things, an independent contractor or an employee of a specified clinic. Existing

law, the Moscone-Knox Professional Corporation Act, prohibits a professional corporation from rendering professional services in this state without a currently effective certificate of registration issued by the governmental agency regulating the profession in which the corporation is or proposes to be engaged and excepts any professional corporation rendering professional services by persons duly licensed by specified state entities from that requirement. Existing law authorizes specified healing arts practitioners licensees to be shareholders, officers, directors, or professional employees of a designated professional corporation, subject to certain limitations relating to ownership of shares. *However, existing law specifies that it does not limit employment by a designated professional corporation to only those healing arts licensees and authorizes any healing arts licensee to be employed to render professional services by a designated professional corporation.*

This bill would additionally except any professional corporation rendering professional services by persons duly licensed by the Dental Hygiene Committee of California from the certificate of registration requirement. The bill would authorize dental assistants and licensed dentists to be shareholders, officers, directors, or professional employees of a registered dental hygienist in alternative practice corporation. *The bill would, in the Dental Practice Act, authorize a registered dental hygienist in alternative practice to practice as an employee of a professional corporation, as specified. The bill would make it unprofessional conduct to violate, attempt to violate, assist in or abet the violation of, or conspire to violate, specified provisions regarding registered dental hygienists in alternative practice corporations, the Moscone-Knox Professional Corporation Act, or any regulations adopted under those laws. The bill would require the bylaws of a registered dental hygienist in alternative practice corporation to include a provision requiring the capital stock of a disqualified or deceased person to be sold to specified parties within a specified period of time. The bill would also require such a corporation to provide security for claims by patients.*

~~(2) Existing law, the Knox-Keene Health Care Service Plan Act of 1975, provides for the licensure and regulation of health care service plans by the Department of Managed Health Care and makes a willful violation of the act a crime. Existing law also provides for the regulation of health insurers by the Department of Insurance. Existing law provides certain standards that govern health care service plan contracts covering dental services, health insurance policies covering dental services,~~

~~specialized health care service plan contracts covering dental services, and specialized health insurance policies covering dental services.~~

~~This bill would require health care service plan contracts covering dental services, health insurance policies covering dental services, specialized health care service plan contracts covering dental services, and specialized health insurance policies covering dental services issued, amended, or renewed on or after January 1, 2016, to provide specified reimbursement for registered dental hygienists in alternative practice performing dental hygiene services that may lawfully be performed by registered dental hygienists and that are reimbursable under the contracts or policies. The bill would also require the plan or insurer to use the same fee schedule for reimbursing both registered dental hygienists and registered dental hygienists in alternative practice. Because a willful violation of the bill's provisions by a health care service plan covering dental services or a specialized health care service plan covering dental services would be a crime, it would impose a state-mandated local program.~~

~~(3) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.~~

~~This bill would provide that no reimbursement is required by this act for a specified reason.~~

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: ~~yes~~*no*.

The people of the State of California do enact as follows:

1 SECTION 1. Section 1925 of the Business and Professions
2 Code is amended to read:
3 1925. A registered dental hygienist in alternative practice may
4 practice, pursuant to subdivision (a) of Section 1907, subdivision
5 (a) of Section 1908, subdivisions (a) and (b) of Section 1910,
6 Section 1910.5, and Section 1926.05 as an employee of a dentist
7 or of another registered dental hygienist in alternative practice, as
8 an independent contractor, as a sole proprietor of an alternative
9 dental hygiene practice, as an employee of a primary care clinic
10 or specialty clinic that is licensed pursuant to Section 1204 of the
11 Health and Safety Code, as an employee of a primary care clinic
12 exempt from licensure pursuant to subdivision (c) of Section 1206
13 of the Health and Safety Code, as an employee of a clinic owned

1 or operated by a public hospital or health system, ~~or~~ as an employee
2 of a clinic owned and operated by a hospital that maintains the
3 primary contract with a county government to fill the county's role
4 under Section 17000 of the Welfare and Institutions ~~Code~~. Code,
5 or as an employee of a professional corporation under the
6 Moscone-Knox Professional Corporation Act (commencing with
7 Section 13400) of Part 4 of Division 3 of Title 1 of the Corporations
8 Code.

9 SEC. 2. Article 9.1 (commencing with Section 1967) is added
10 to Chapter 4 of Division 2 of the Business and Professions Code,
11 to read:

12
13 *Article 9.1. Registered Dental Hygienist in Alternative Practice*
14 *Corporations*
15

16 *1967. A registered dental hygienist in alternative practice*
17 *corporation is a professional corporation that is authorized to*
18 *render professional services, as defined in Section 13401 of the*
19 *Corporations Code, so long as that professional corporation and*
20 *its shareholders, officers, directors, and professional employees*
21 *rendering professional services are in compliance with the*
22 *Moscone-Knox Professional Corporation Act (commencing with*
23 *Section 13400) of Part 4 of Division 3 of Title 1 of the Corporations*
24 *Code, this article, and all other statutes and regulations now or*
25 *hereafter adopted pertaining to the professional corporation and*
26 *the conduct of its affairs. With respect to a registered dental*
27 *hygienist in alternative practice corporation, the governmental*
28 *agency referred to in the Moscone-Knox Professional Corporation*
29 *Act is the Dental Hygiene Committee of California.*

30 *1967.1. It shall constitute unprofessional conduct and a*
31 *violation of this article for any person licensed under this article*
32 *to violate, attempt to violate, directly or indirectly, assist in or*
33 *abet the violation of, or conspire to violate any provision or term*
34 *of this article, the Moscone-Knox Professional Corporation Act,*
35 *or any regulations duly adopted under those laws.*

36 *1967.2. A registered dental hygienist in alternative practice*
37 *corporation shall not do or fail to do any act the doing of which*
38 *or the failure to do would constitute unprofessional conduct under*
39 *any statute or regulation, now or hereafter adopted. In the conduct*
40 *of its practice, it shall observe and be bound by such statutes and*

1 *regulations to the same extent as a person holding a license under*
2 *Article 9 (commencing with Section 1900).*

3 *1967.3. The income of a registered dental hygienist in*
4 *alternative practice corporation attributable to professional*
5 *services rendered while a shareholder is a disqualified person, as*
6 *defined in subdivision (e) of Section 13401 of the Corporations*
7 *Code, shall not in any manner accrue to the benefit of such*
8 *shareholder or his or her shares in the registered dental hygienist*
9 *in alternative practice corporation.*

10 *1967.4. (a) The bylaws of a registered dental hygienist in*
11 *alternative practice corporation shall include a provision whereby*
12 *the capital stock of the professional corporation owned by a*
13 *disqualified person, as defined in subdivision (e) of Section 13401*
14 *of the Corporations Code, or a deceased person, shall be sold to*
15 *the professional corporation or to the remaining shareholders of*
16 *the professional corporation not later than 90 days after*
17 *disqualification, if the shareholder becomes a disqualified person,*
18 *or not later than six months after death, if the shareholder becomes*
19 *deceased.*

20 *(b) A registered dental hygienist in alternative practice*
21 *corporation shall provide adequate security by insurance or*
22 *otherwise for claims against it by its patients arising out of the*
23 *rendering of professional services.*

24 **SECTION 1.**

25 **SEC. 3.** Section 13401 of the Corporations Code is amended
26 to read:

27 13401. As used in this part:

28 (a) "Professional services" means any type of professional
29 services that may be lawfully rendered only pursuant to a license,
30 certification, or registration authorized by the Business and
31 Professions Code, the Chiropractic Act, or the Osteopathic Act.

32 (b) "Professional corporation" means a corporation organized
33 under the General Corporation Law or pursuant to subdivision (b)
34 of Section 13406 that is engaged in rendering professional services
35 in a single profession, except as otherwise authorized in Section
36 13401.5, pursuant to a certificate of registration issued by the
37 governmental agency regulating the profession as herein provided
38 and that in its practice or business designates itself as a professional
39 or other corporation as may be required by statute. However, any
40 professional corporation or foreign professional corporation

1 rendering professional services by persons duly licensed by the
2 Medical Board of California or any examining committee under
3 the jurisdiction of the board, the Osteopathic Medical Board of
4 California, the Dental Board of California, the Dental Hygiene
5 Committee of California, the California State Board of Pharmacy,
6 the Veterinary Medical Board, the California Architects Board,
7 the Court Reporters Board of California, the Board of Behavioral
8 Sciences, the Speech-Language Pathology and Audiology Board,
9 the Board of Registered Nursing, or the State Board of Optometry
10 shall not be required to obtain a certificate of registration in order
11 to render those professional services.

12 (c) “Foreign professional corporation” means a corporation
13 organized under the laws of a state of the United States other than
14 this state that is engaged in a profession of a type for which there
15 is authorization in the Business and Professions Code for the
16 performance of professional services by a foreign professional
17 corporation.

18 (d) “Licensed person” means any natural person who is duly
19 licensed under the provisions of the Business and Professions
20 Code, the Chiropractic Act, or the Osteopathic Act to render the
21 same professional services as are or will be rendered by the
22 professional corporation or foreign professional corporation of
23 which he or she is, or intends to become, an officer, director,
24 shareholder, or employee.

25 (e) “Disqualified person” means a licensed person who for any
26 reason becomes legally disqualified (temporarily or permanently)
27 to render the professional services that the particular professional
28 corporation or foreign professional corporation of which he or she
29 is an officer, director, shareholder, or employee is or was rendering.

30 ~~SEC. 2.~~

31 *SEC. 4.* Section 13401.5 of the Corporations Code is amended
32 to read:

33 13401.5. Notwithstanding subdivision (d) of Section 13401
34 and any other provision of law, the following licensed persons
35 may be shareholders, officers, directors, or professional employees
36 of the professional corporations designated in this section so long
37 as the sum of all shares owned by those licensed persons does not
38 exceed 49 percent of the total number of shares of the professional
39 corporation so designated herein, and so long as the number of
40 those licensed persons owning shares in the professional

1 corporation so designated herein does not exceed the number of
2 persons licensed by the governmental agency regulating the
3 designated professional corporation. This section does not limit
4 employment by a professional corporation designated in this section
5 to only those licensed professionals listed under each subdivision.
6 Any person duly licensed under Division 2 (commencing with
7 Section 500) of the Business and Professions Code, the
8 Chiropractic Act, or the Osteopathic Act may be employed to
9 render professional services by a professional corporation
10 designated in this section.

11 (a) Medical corporation.

12 (1) Licensed doctors of podiatric medicine.

13 (2) Licensed psychologists.

14 (3) Registered nurses.

15 (4) Licensed optometrists.

16 (5) Licensed marriage and family therapists.

17 (6) Licensed clinical social workers.

18 (7) Licensed physician assistants.

19 (8) Licensed chiropractors.

20 (9) Licensed acupuncturists.

21 (10) Naturopathic doctors.

22 (11) Licensed professional clinical counselors.

23 (12) Licensed physical therapists.

24 (b) Podiatric medical corporation.

25 (1) Licensed physicians and surgeons.

26 (2) Licensed psychologists.

27 (3) Registered nurses.

28 (4) Licensed optometrists.

29 (5) Licensed chiropractors.

30 (6) Licensed acupuncturists.

31 (7) Naturopathic doctors.

32 (8) Licensed physical therapists.

33 (c) Psychological corporation.

34 (1) Licensed physicians and surgeons.

35 (2) Licensed doctors of podiatric medicine.

36 (3) Registered nurses.

37 (4) Licensed optometrists.

38 (5) Licensed marriage and family therapists.

39 (6) Licensed clinical social workers.

40 (7) Licensed chiropractors.

- 1 (8) Licensed acupuncturists.
- 2 (9) Naturopathic doctors.
- 3 (10) Licensed professional clinical counselors.
- 4 (d) Speech-language pathology corporation.
- 5 (1) Licensed audiologists.
- 6 (e) Audiology corporation.
- 7 (1) Licensed speech-language pathologists.
- 8 (f) Nursing corporation.
- 9 (1) Licensed physicians and surgeons.
- 10 (2) Licensed doctors of podiatric medicine.
- 11 (3) Licensed psychologists.
- 12 (4) Licensed optometrists.
- 13 (5) Licensed marriage and family therapists.
- 14 (6) Licensed clinical social workers.
- 15 (7) Licensed physician assistants.
- 16 (8) Licensed chiropractors.
- 17 (9) Licensed acupuncturists.
- 18 (10) Naturopathic doctors.
- 19 (11) Licensed professional clinical counselors.
- 20 (g) Marriage and family therapist corporation.
- 21 (1) Licensed physicians and surgeons.
- 22 (2) Licensed psychologists.
- 23 (3) Licensed clinical social workers.
- 24 (4) Registered nurses.
- 25 (5) Licensed chiropractors.
- 26 (6) Licensed acupuncturists.
- 27 (7) Naturopathic doctors.
- 28 (8) Licensed professional clinical counselors.
- 29 (h) Licensed clinical social worker corporation.
- 30 (1) Licensed physicians and surgeons.
- 31 (2) Licensed psychologists.
- 32 (3) Licensed marriage and family therapists.
- 33 (4) Registered nurses.
- 34 (5) Licensed chiropractors.
- 35 (6) Licensed acupuncturists.
- 36 (7) Naturopathic doctors.
- 37 (8) Licensed professional clinical counselors.
- 38 (i) Physician assistants corporation.
- 39 (1) Licensed physicians and surgeons.
- 40 (2) Registered nurses.

- 1 (3) Licensed acupuncturists.
- 2 (4) Naturopathic doctors.
- 3 (j) Optometric corporation.
- 4 (1) Licensed physicians and surgeons.
- 5 (2) Licensed doctors of podiatric medicine.
- 6 (3) Licensed psychologists.
- 7 (4) Registered nurses.
- 8 (5) Licensed chiropractors.
- 9 (6) Licensed acupuncturists.
- 10 (7) Naturopathic doctors.
- 11 (k) Chiropractic corporation.
- 12 (1) Licensed physicians and surgeons.
- 13 (2) Licensed doctors of podiatric medicine.
- 14 (3) Licensed psychologists.
- 15 (4) Registered nurses.
- 16 (5) Licensed optometrists.
- 17 (6) Licensed marriage and family therapists.
- 18 (7) Licensed clinical social workers.
- 19 (8) Licensed acupuncturists.
- 20 (9) Naturopathic doctors.
- 21 (10) Licensed professional clinical counselors.
- 22 (l) Acupuncture corporation.
- 23 (1) Licensed physicians and surgeons.
- 24 (2) Licensed doctors of podiatric medicine.
- 25 (3) Licensed psychologists.
- 26 (4) Registered nurses.
- 27 (5) Licensed optometrists.
- 28 (6) Licensed marriage and family therapists.
- 29 (7) Licensed clinical social workers.
- 30 (8) Licensed physician assistants.
- 31 (9) Licensed chiropractors.
- 32 (10) Naturopathic doctors.
- 33 (11) Licensed professional clinical counselors.
- 34 (m) Naturopathic doctor corporation.
- 35 (1) Licensed physicians and surgeons.
- 36 (2) Licensed psychologists.
- 37 (3) Registered nurses.
- 38 (4) Licensed physician assistants.
- 39 (5) Licensed chiropractors.
- 40 (6) Licensed acupuncturists.

- 1 (7) Licensed physical therapists.
- 2 (8) Licensed doctors of podiatric medicine.
- 3 (9) Licensed marriage and family therapists.
- 4 (10) Licensed clinical social workers.
- 5 (11) Licensed optometrists.
- 6 (12) Licensed professional clinical counselors.
- 7 (n) Dental corporation.
- 8 (1) Licensed physicians and surgeons.
- 9 (2) Dental assistants.
- 10 (3) Registered dental assistants.
- 11 (4) Registered dental assistants in extended functions.
- 12 (5) Registered dental hygienists.
- 13 (6) Registered dental hygienists in extended functions.
- 14 (7) Registered dental hygienists in alternative practice.
- 15 (o) Professional clinical counselor corporation.
- 16 (1) Licensed physicians and surgeons.
- 17 (2) Licensed psychologists.
- 18 (3) Licensed clinical social workers.
- 19 (4) Licensed marriage and family therapists.
- 20 (5) Registered nurses.
- 21 (6) Licensed chiropractors.
- 22 (7) Licensed acupuncturists.
- 23 (8) Naturopathic doctors.
- 24 (p) Physical therapy corporation.
- 25 (1) Licensed physicians and surgeons.
- 26 (2) Licensed doctors of podiatric medicine.
- 27 (3) Licensed acupuncturists.
- 28 (4) Naturopathic doctors.
- 29 (5) Licensed occupational therapists.
- 30 (6) Licensed speech-language therapists.
- 31 (7) Licensed audiologists.
- 32 (8) Registered nurses.
- 33 (9) Licensed psychologists.
- 34 (10) Licensed physician assistants.
- 35 (q) Registered dental hygienist in alternative practice
- 36 corporation.
- 37 (1) Dental assistants.
- 38 (2) Licensed dentists.
- 39 ~~SEC. 3. Section 1374.196 is added to the Health and Safety~~
- 40 ~~Code, to read:~~

1 ~~1374.196. (a) This section shall only apply to a health care~~
2 ~~service plan contract covering dental services or a specialized~~
3 ~~health care service plan contract covering dental services issued,~~
4 ~~amended, or renewed on or after January 1, 2016.~~

5 ~~(b) A registered dental hygienist in alternative practice, licensed~~
6 ~~pursuant to Section 1922 of the Business and Professions Code,~~
7 ~~may submit or allow to be submitted on his or her behalf any claim~~
8 ~~for dental hygiene services performed as authorized pursuant to~~
9 ~~Article 9 (commencing with Section 1900) of Chapter 4 of Division~~
10 ~~2 of the Business and Professions Code to a health care service~~
11 ~~plan covering dental services or a specialized health care service~~
12 ~~plan covering dental services.~~

13 ~~(c) If a health care service plan contract covering dental services~~
14 ~~or a specialized health care service plan contract covering dental~~
15 ~~services provides reimbursement for dental hygiene services that~~
16 ~~may lawfully be performed by a registered dental hygienist,~~
17 ~~licensed pursuant to Section 1917 of the Business and Professions~~
18 ~~Code, reimbursement under that plan contract to a contracted~~
19 ~~provider, or to an enrollee if out-of-network services are covered,~~
20 ~~shall not be denied when the service is performed by a registered~~
21 ~~dental hygienist in alternative practice.~~

22 ~~(d) (1) Nothing in this section shall preclude a health care~~
23 ~~service plan contract covering dental services or a specialized~~
24 ~~health care service plan contract covering dental services from~~
25 ~~setting different fee schedules for different services provided by~~
26 ~~different providers.~~

27 ~~(2) A health care service plan contract covering dental services~~
28 ~~or a specialized health care service plan contract covering dental~~
29 ~~services shall use the same fee schedule for dental hygiene services~~
30 ~~whether the services are performed by a registered dental hygienist~~
31 ~~or a registered dental hygienist in alternative practice.~~

32 ~~SEC. 4. Section 10120.4 is added to the Insurance Code, to~~
33 ~~read:~~

34 ~~10120.4. (a) This section shall only apply to a health insurance~~
35 ~~policy covering dental services or a specialized health insurance~~
36 ~~policy covering dental services issued, amended, or renewed on~~
37 ~~or after January 1, 2016.~~

38 ~~(b) A registered dental hygienist in alternative practice, licensed~~
39 ~~pursuant to Section 1922 of the Business and Professions Code,~~
40 ~~may submit or allow to be submitted on his or her behalf any claim~~

1 for dental hygiene services performed as authorized pursuant to
2 Article 9 (commencing with Section 1900) of Chapter 4 of Division
3 2 of the Business and Professions Code to a health insurer covering
4 dental services or a specialized health insurer covering dental
5 services.

6 (e) ~~If a health insurance policy covering dental services or a~~
7 ~~specialized health insurance policy covering dental services~~
8 ~~provides for reimbursement for dental hygiene services that may~~
9 ~~lawfully be performed by a registered dental hygienist, licensed~~
10 ~~pursuant to Section 1917 of the Business and Professions Code,~~
11 ~~reimbursement under that policy to a contracted provider, or to an~~
12 ~~insured if out-of-network services are covered, shall not be denied~~
13 ~~when the service is performed by a registered dental hygienist in~~
14 ~~alternative practice.~~

15 (d) (1) ~~Nothing in this section shall preclude a health insurance~~
16 ~~policy covering dental services or a specialized health insurance~~
17 ~~policy covering dental services from setting different fee schedules~~
18 ~~for different services provided by different providers.~~

19 (2) ~~A health insurance policy covering dental services or a~~
20 ~~specialized health insurance policy covering dental services shall~~
21 ~~use the same fee schedule for dental hygiene services whether the~~
22 ~~services are performed by a registered dental hygienist or a~~
23 ~~registered dental hygienist in alternative practice.~~

24 SEC. 5. ~~No reimbursement is required by this act pursuant to~~
25 ~~Section 6 of Article XIII B of the California Constitution because~~
26 ~~the only costs that may be incurred by a local agency or school~~
27 ~~district will be incurred because this act creates a new crime or~~
28 ~~infraction, eliminates a crime or infraction, or changes the penalty~~
29 ~~for a crime or infraction, within the meaning of Section 17556 of~~
30 ~~the Government Code, or changes the definition of a crime within~~
31 ~~the meaning of Section 6 of Article XIII B of the California~~
32 ~~Constitution.~~